DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

JOHN A. LASOTA, JR.
ATTORNEY GENERAL

June 23, 1978

Ted Williams
Deputy Director
Department of Health Services
1740 West Adams
Phoenix, Arizona 85007

Re: 78-125 (R78-153)

Dear Mr. Williams:

In your letter of May 23, 1978, you requested our advice on whether a health care institution may, after announcing a temporary reduction in rates and charges, resume its former rate schedule without filing for a rate increase pursuant to A.R.S. § 36-436.02. It is our opinion that a health care institution may not reserve the right to resume a previously adopted schedule of rates and charges when it implements a reduction in that schedule.

A.R.S. § 36-436.02 states:

> A. No increase shall be made by any health care institution in any rate or charge unless and until the proposed increase has been filed with the director and reviewed in the same manner as the schedule as set forth in § 36-436, except that an increase shall be approved without further review by the director, or by the authorized local agency under provisions of § 36-436.03, for any service for which the health care institution has been denied approval for a reduction or termination of such service. The director shall make public his findings within sixty days after the schedule is filed.
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> B. A copy of any proposed reduction in any rate or charge shall be filed with the director for informational purposes prior to the effective date of such reduction.

A.R.S. § 36-436.02.B requires that all reductions,

temporary or otherwise, be filed with the Director of the Department of Health Services prior to the effective date of such reduction. Further, A.R.S. § 36-436.02.A provides that no increase in rates and charges may be made by any health care institution unless that increase complies with the proper statutory procedure. When both subsections of A.R.S. § 36-436.02 are read together, it is clear that there is no exception allowing a health care institution to return to its former rate level after it has filed a proposed reduction with the Director of the Department of Health Services and has implemented that proposal. All increases and reductions of rates, regardless of when and how implemented, must follow the procedures required by A.R.S. § 36-436.02. To exempt rate increases resulting from an undefined class of "temporary reductions" from the purview of A.R.S. § 36-436.02 would violate the plain meaning of the statute, create an unnecessary ambiguity and be inconsistent with its regulatory purpose.

The courts have consistently held that the words of a statute should be given their ordinary meaning, unless it appears from the content, or otherwise, that a different sense was intended. State v. Raffaele, 113 Ariz. 259, 550 P.2d 1060 (1976), Arizona Eastern Railroad Company v. Matthews, 20 Ariz. 282, 180 P. 159 (1919). The plain, clear and unambiguous language of a statute is to be given that meaning unless impossible or absurd consequences may result. Balestrieri v. Hartford Accident & Indemnity Insurance Co., 112 Ariz. 160, 540 P.2d 126 (1975). We therefore conclude that any increase in rates or charges by a health care institution, following a reduction which has been filed with the Director of the Department of Health Services and implemented, cannot be effective unless that proposed increase has been filed with and reviewed by the Director.

Very truly yours,

John A. LaSota, Jr.

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Attorney General

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